IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1103 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 27/01/2004 in WPMP.NO.31937 OF 2003 IN WP NO : 4971 OF 2000 on the file of the High Court.)

Between:

M/s Bayer (India) Limited, rep. by its Managing Director,Mumbai Bayer House, Central Avenue Hirannadani Gardens, Powai, Mumbai.

..... APPELLANT

AND

1 V. Shyam Sundar, s/o Late V. Peter, D.No. 17-5-3, Lakshmivarapupeta, Eluru, West Godavari District.
2 The Second Appellate Authority u/s 48(3) of A.P. Shops and Estab. Act 1988 and the Deputy Commissioner of Labour, Zone-II, Eluru, West Godavari District.
3 The Authority U/s 18 of A.P. Shops and Estt. Act, 1988 and the Assistant Commissioner of Labour,Vijayawada, Krishna District.

.....RESPONDENT(S)

Counsel for the Appellant:MR.M.PANDURANGA RAO, Advocate.

Counsel for the Respondents No.2 & 3 : GP FOR LABOUR

Counsel for the Respondent No.1 : Mr.G.VIDYASAGAR, Advocate.

The Court made the following :

JUDGMENT : (Per Sri Bilal Nazki, J).

Heard learned Counsel for the parties. With their consent, the Writ Appeal is disposed of at this stage.

It appears that an order had been passed in favour of the 1st Respondent, which is challenged by way of Writ Petition being Writ Petition No.4971 of 2000. When the Writ Petition was filed by the Management, the respondent No.1 filed an application seeking payment of last drawn wages in terms of Section 48(4) of A.P. Shops and Establishments Act, 1988 (hereinafter referred to as 'the Act'). The Court did not pass any orders on that application. Subsequently, another application was filed, being W.P.M.P.No.31937 of 2003, in which the Court passed the following order;

> *"The Writ Petitioner is directed to pay the petitioner, the last drawn wages, with effect from the date of order of the Authority under the payment of wages Act and shall continue to pay the same month to month. The arrears on this count shall be paid within a period of three months from the date of receipt of the copy of this order."*

This order is subject matter of this Writ Appeal.

We are of the view that the 1st respondent could have not been allowed last drawn wages from the day he was terminated, but he could have been allowed last drawn wages from the date an order was passed in his favour and a Writ Petition was filed before this Court challenging the said order. Therefore, we modify the order of

the learned Single Judge that the last drawn wages shall be paid to the 1st respondent in accordance with Section 48(4) of the Act. Arrears shall be paid from the date the Writ Petition was filed. Arrears shall be paid within four weeks from today. Thereafter, the 1st respondent shall be paid on month to month basis.

The learned Counsel appearing for appellant also submits that while terminating the services, a huge amount was paid to the 1st respondent, which was a requirement of law, therefore there should be some security that in case he fails, he will repay the amounts. The learned Counsel for 1st respondent however submits that the money offered to him was returned by him before filing the appeal before the Shops and Establishments authority. In this view of the matter, no further orders are necessary on this aspect. Writ Petition be posted after three weeks before the appropriate Bench for final disposal.

Appeal is accordingly disposed of. No costs.

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(BILAL NAZKI, J)

29th July, 2004.

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(S.ANANDA REDDY, J)

ajr.

To

1 The Deputy Commissioner of Labour, Zone-II, Eluru, West Godavari

District.

2 The Assistant Commissioner of Labour,Vijayawada, Krishna District.

3 Two C.Cs. to the G.P. for Labour, High Court buildings, Hyderabad

(O.U.T.).

4 Two C.D. copies.